

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

## ADVANCED ARCHITECTURAL METALS, INC., et al.,

## Plaintiffs,

V.

CORNELE A. OVERSTREET, Director,  
Region 28, et al.,

## Defendants.

2:08-cv-0209-LDG-PAL

## ORDER

On February 19, 2008, plaintiffs filed a complaint for injunctive relief (#1), and on February 21, 2008, filed a motion for temporary restraining order and for preliminary injunction (#4), seeking to enjoin the ongoing unfair labor practice proceeding of the National Labor Relations Board scheduled for hearing on March 4, 2008. Defendants (collectively the NLRB) have filed a motion to dismiss the complaint (#7, memorandum #9), and a response to the motion for temporary restraining order and preliminary injunction (#8, memorandum #9). While plaintiffs have not had an opportunity to file an opposition to the motion to dismiss, or a reply to the motion for temporary restraining order and preliminary injunction, the court, upon review of the controlling authorities, and in light of the approaching administrative hearing, hereby rules on the motions with dispatch.

The court lacks jurisdiction to enjoin the scheduled NLRB's unfair labor practice proceedings. With very limited exceptions not applicable in this case, Congress has vested

1 exclusive jurisdiction in the courts of appeal to review "all questions of the jurisdiction of the  
2 Board and the regularity of its proceedings, [and] all questions of constitutional right or statutory  
3 authority." AMERCO v. NLRB, 458 F.3d 883, 887 (9th Cir. 2006) (quoting Myers v. Bethlehem  
4 Shipbuilding Corp. 303 U.S. 41, 49 (1938)). Thus, federal district courts have no subject matter  
5 jurisdiction to enjoin NLRB unfair labor practice proceedings. See E.G. & H, Inc. v. NLRB, 949  
6 F.2d 276, 277 (9th Cir. 1991) (citing with approval Scott Corp. v. NLRB, 683 F. Supp. 1312, 1319  
7 (D. Nev. 1987)). Nor have plaintiffs alleged or demonstrated a risk of irreparable injury entitling  
8 them to injunctive relief in this context. See Myers, 303 U.S. at 51-52 (the holding of the NLRB  
9 administrative hearing does not amount to irreparable injury). Accordingly,

10 THE COURT HEREBY ORDERS that plaintiffs' motion for temporary restraining order  
11 and preliminary injunction (#4) is DENIED, and the defendants' motion to dismiss the complaint  
12 (#7) is GRANTED.

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14 DATED this 28 day of February, 2008.

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Lloyd D. George  
United States District Judge

